



## CORPORAL AND HUMILIATING PUNISHMENT OF CHILDREN IN SOUTH AFRICA

### International and Constitutional Perspective -----

The UN Convention on the Rights of the Child, The African Charter on the Rights and Welfare of the Child and the South African Constitution all recognize children's right for respect of their human dignity, physical integrity and equal protection under the law. South Africa has a duty to respect, promote and protect these rights of all citizens.

In the past slave owners said it was their right to beat their slaves; police and courts have said it is their right to beat prisoners and husbands have said it is their right to beat their wives. The fact that parents say that it is their right to beat their children must be challenged. It is highly concerning that children, who are physically and psychologically the most vulnerable members of our society are last in line to receive protection of this fundamental human right.

### Corporal Punishment in South Africa -----

The use of corporal punishment in South Africa is common. Parents use many different methods that range from smacking and spanking to kicking, punching, beating with objects and pushing. 57% of parents surveyed in a recent South African national survey on corporal punishment reported smacking or spanking their children with a hand while 33% beat their children with a belt or other object, very young children are the most likely to be hit and beaten<sup>1</sup>. 28% of South African Teachers surveyed in 2005 admit to using corporal punishment<sup>2</sup>.

**“poor children suffer the harshest physical punishment”** Research indicates that children of all backgrounds, ages and income brackets are subjected to corporal and other forms of humiliating and degrading punishment. In South Africa children from high income families and attending more affluent schools reported very few cases while the most severe forms of punishment were experienced in the homes and schools of the children from low income environments<sup>3</sup>.

#### **The following quotes are from *South African Children's Experiences of Corporal Punishment 2005*<sup>4</sup>**

*“We were all sitting with my sisters, brothers and cousins. He asked how am I talking to him and he hit me. He hit me with a pipe that has wires inside. He hit all over the body.” Girl KwaZulu-Natal*

*“She took out a belt in front of my brother and she started beating me up. She made me go to my friend's house. I was scared and I went there crying. When I got to the gate I wiped my tears and my eyes were still red and I was embarrassed that my friend could see me, that I was beaten at home.” Girl Limpopo*

*“She gave me five strikes on the buttocks, My heart was so sore and my bums were painful. I couldn't sit down the whole weekend. Every time I looked at the teacher I resented her” Girl KwaZulu-Natal*

*“He said, ‘you stupid, I will moer you’. He always talks like that. He swears a lot. He is insulting all the time.” Boy Western Cape*

Corporal punishment very often escalates into serious physical assault, many of the beatings that children suffer at the hands of adults would be considered completely unacceptable if committed against an adult. While our law remains the same we will continue to support parents in this use of violence against children when it is done in the name of “punishment”. Also while many adults would try to defend themselves or get away, children don't have this option.

Trying to define “acceptable” levels of violence is an exercise that will be impossible control and continue to make children vulnerable to physical and psychological harm.

<sup>1</sup> Dawes A, De Sass Kropiwnicki Z, Kafaar Z & Richter L (2005), *Corporal Punishment of Children, A South African National Survey Save the Children*

<sup>2</sup> Rapport 28 January 2006 reporting on research conducted by the University of the Free State, School of Education

<sup>3</sup> Clacherty G, Donald D & Clacherty A (2005), *South African Children's Experiences of Corporal Punishment* Pretoria: Save the Children Sweden

<sup>4</sup> Ibid



## CORPORAL PUNISHMENT, CULTURE AND RELIGION

### Is hitting children a religious and cultural right? -----

Claims have been made that it is a cultural practice to hit children and that the state should not interfere with this. Corporal punishment is widely used by people from different cultural backgrounds in South Africa. The use of corporal punishment is based more on social acceptance of this method than because of a cultural standard and because this is the most well known method of punishment of children in South Africa.

The use of physical punishment as a method of maintain control was introduced into African states through colonialism. It was entrenched in South African law during apartheid and was deliberately used to strengthen the apartheid system. In contrast there is a Zulu saying that “you don’t build a family with a stick” and corporal punishment is also not consistent with the concept of Ubuntu.

### Religious support of positive discipline -----

Religions bear many different texts that are interpreted as supporting the use of corporal punishment, at the same time there are texts that indicate that causing harm to children is unacceptable.

In Christianity all of the recorded encounters between children and Jesus were kind, gentle and respectful he reportedly said: *“Whoever receives a child receives Jesus, whoever causes a child to suffer or stumble in sin it would be better for him to have a great millstone fastened round his neck and to be drowned in the depth of the sea”*<sup>1</sup>

In Islam to take good care of and show compassion towards children is one of the most commendable deeds. The advice of the prophet is to treat those who are under the age of seven as children (employing tenderness and compassion), treating those from seven to 14 as siblings (with care and concern) and from 14 onwards as close friends (with trust and cooperation), corporal punishment contradicts this. The Prophet of Islam said *“Be generous, kind and noble to your children and make their manners good and beautiful.”*

So while some churches and religions support corporal punishment many believe that it is no longer appropriate to the world we live in. Where in the past stoning people to death and cutting people’s hands off was supported and accepted by religions as our world has grown and changed, these methods are now widely accepted to be inappropriate and illegal.

The constitution is clear that where any cultural or religious practice infringes on the human rights of others it is not acceptable. The Constitutional Court has held that the prohibition of corporal punishment in schools is a justifiable limitation on the right to freedom of religion<sup>2</sup>.

### Archbishop Emeritus Desmond Tutu said the following:

*“I support the Global Initiative to eliminate all corporal punishment at home, at school, in institutions and community. ... Progress towards abolishing corporal punishment is being made, but millions of the world’s children still suffer from humiliating acts of violence and these violations ... can have serious lifelong effects. Violence begets violence and we shall reap a whirlwind. Children can be disciplined without violence that instills fear and misery, and I look forward to church communities working with other organizations to ... make progress towards ending all forms of violence against children. If we really want a peaceful and compassionate world, we need to build communities of trust where all children are respected, where home and school are safe places to be and where discipline is taught by example. May God give us grace to love our children as He loves them and may their trust in us lead them to trust in Him.”*<sup>3</sup>

<sup>1</sup> The Bible Matthew 18:5 to 18:6

<sup>2</sup> S v Williams and others 1995 (3) SA 632 (CC)

<sup>3</sup> Archbishop Emeritus Desmond Tutu *Ending Legalised Violence Against Children, All Africa Special Report* Messages of support



## PROTECTING CHILDREN AND STRENGTHENING FAMILIES

### **Will parents be sent to prison for giving their children a hiding now? -----**

The purpose of creating laws is to prevent undesirable behaviour in society, institution of criminal proceedings indicates that a law has failed to achieve its aim.

The majority of parents who use corporal punishment love their children and want what's best for the child. Prosecuting parents will not be in the best interests of children unless the level of violence is severe. Children will benefit more from living in families that love and respect them and thus interventions into families where corporal punishment is used should be ones that provide support, information and education to the parents. It should only be if these measures fail and the parent continues to physically punish the child that they should be prosecuted for assault. The children's bill can provide that parents who are reported for using corporal punishment are sent on programmes that will help to strengthen the family. While it is a crime for adults to hit other adults, most common assault of adults is un-reported or is not prosecuted on the basis that law cannot concern itself with trivial matters. This same principle should be applied to any assault of children.

Children do not report adults for crimes committed against them, this is shown in the low rate of reporting of sexual and physical abuse (as it is currently understood). The majority of children suffer extreme violations in silence, in light of this, it is highly unlikely that they will suddenly start reporting parents for less severe acts. The experience in countries that have banned corporal punishment is that there is not a significant increase in prosecution of parents<sup>1</sup>.

Changing the law to make it clear that a man may not beat his wife, has not stopped this from happening and it has not meant that every abusive husband has been prosecuted, however it has meant that many who would previously get away with this abuse have been prevented from it continuing. It has also meant that there have been more strategies to teach people that this behaviour is unacceptable and programmes put in place to help men and women change this behaviour.

### **Should the law get involved in what happens in people's homes and families? -----**

The constitution provides people with the right to be free from violence from either public and from private sources.

Many people have indicated that the law has no place telling parents how to raise their children. This is a strange argument as the law obviously must provide boundaries relating to what is acceptable or not. For example the law is clear that parents may not sexually abuse their children in the privacy of the family, in addition the domestic violence act is largely involved with what takes place in the privacy of the home.

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<sup>1</sup> Research in Sweden indicates that an increase in reports of abuse but no increase in prosecution and an actual decrease in prosecutions for assault of young adults who grew up after corporal punishment was banned. JE Durrant (1999) *A Generation Without Smacking: The impact of Sweden's ban on physical punishment* Save the children pp11-16



## THE IMPACT OF CORPORAL PUNISHMENT

### **The effects of corporal and humiliating punishment -----**

In some cases hitting the child may stop the behaviour immediately but it does not necessarily stop children from doing the same thing in the future, this is because they are less likely to learn from this punishment and more likely to resist the parent and to find ways to avoid getting caught in future. This is why some children are “always in trouble” and repeatedly given hidings.

Corporal and humiliating punishment allows the parent to express their frustration and anger but it does not teach the child about logical consequences. It results in fear, resentment and a breakdown of the relationship of trust with the parent.

Children who have been humiliated and hit are more likely to humiliate and hit other children. They are more likely to engage in violence themselves when they grow up or more likely to be physically, emotionally and sexually abused in adult relationships.

These forms of punishment cause physical and psychological harm to the child, they undermine the child's self confidence and self esteem leaving them feeling helpless and humiliated<sup>1</sup>.

### **The following quotes are from *South African Children's Experiences of Corporal Punishment 2005*<sup>2</sup>.**

*“So when my mom hits me, it feels like she doesn't love me” Girl Limpopo*  
*“I beat the children because I was angry.” Boy Western Cape*  
*“I felt like killing someone.” Boy Western Cape*

### **Corporal Punishment in a Violent Society -----**

#### **The lesson that using physical punishment teaches is that it is acceptable:**

- ✪ To resolve conflict and difference with violence.
- ✪ To express frustration, anger and helplessness through violence.
- ✪ To hit someone who is smaller than or less powerful than you are.
- ✪ To resort to violence when you don't have time or energy to think of another solution.

In a country that is paralysed by violence and brutality, we must ask if these are messages that we want to be sending to children as they learn to interact socially.

*“Social violence can be viewed as the consequence of abuse experienced in childhood; (it is) the propensity to re-inflict childhood traumas upon others in socially approved violence”* Psychologist Lloyd de Mause<sup>3</sup>

Many people in prisons for violent offences were beaten as children, thus the use of corporal punishment on them did not work. Studies show that the use of corporal punishment in children is linked to antisocial, delinquent and criminal behaviour later in life. People who are subjected to corporal punishment are more likely to engage in violence and humiliation against their spouses and children in adulthood<sup>4</sup>. As a result of the child not being respected and treated with dignity, s/he learns to disrespect other peoples' rights.

<sup>1</sup> Gershoff E (2002) Corporal Punishment by Parents and Associated Child Behaviors and Experiences: A Meta-Analytic and Theoretical Review. Columbia University p542

<sup>2</sup> Clacherty G, Donald D & Clacherty A (2005), *South African Children's Experiences of Corporal Punishment* Pretoria: Save the Children Sweden

<sup>3</sup> (1998) *The History of Child Abuse* Journal of Psychohistory 25

<sup>4</sup> Gershoff E (2002) P542



## PROMOTING DISCIPLINE IN SOUTH AFRICA

### **Does removing corporal punishment result in ill discipline and lawlessness? -----**

Many people believe that hitting children is the only method that works, they fear that removing corporal punishment results in children who have no discipline. Many argue for example that removing corporal punishment in schools has led to greater problems with discipline in schools. While this argument seems to make sense when taken at face value, a few other contextual elements must be considered.

In schools where corporal punishment was previously heavily relied upon and where teaching conditions are bad, teachers have been left feeling frustrated and disempowered<sup>1</sup> and many continue to use corporal and humiliating forms of punishment<sup>2</sup>. Conversely schools that previously had good systems of discipline were more able to incorporate the ban on corporal punishment with little difference on the levels of discipline in the school.

Corporal and humiliating punishment tends to be used to release the frustrations and anger of the adults. Teachers in South Africa have repeatedly voiced their frustration at poor infrastructure, overcrowded classes, unfamiliar curriculum and lack of support from parents and communities with regard to discipline of children. It is suggested that the lack of arts, music and sports programmes in schools contributes to high levels of frustration in learners who are not as strong in academic subjects and who are left feeling like failures and as if they have nothing to contribute. These children are more likely to act out their frustration by misbehaving. The removal of the use of corporal punishment is only one element of the situation that exists in the schools today.

### **What is discipline? -----**

An educational process by which adults assist children and adolescents to develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to live in conformity with accepted levels of social behavior<sup>3</sup>.

### **Methods of Disciplining Children -----**

There is no doubt that children require guidelines, boundaries and discipline as they learn about the world around them. Removing corporal punishment is often confused with being overly permissive with children and allowing them to “do what they want”. Adults must guide children to understand the difference between “right and wrong”. Adults must not tolerate behaviour in children that is harmful to the child or others and that is anti-social.

This can be achieved without using physical and humiliating punishment which is the least effective in developing responsibility, accountability and change in the future behaviour. There are a number of different methods that are used in developing self discipline in children. Positive discipline is based on the idea that children learn more through co-operation and reward than through conflict and punishment<sup>4</sup>.

Many adults in this society were hit as children and do not have a sense of how to discipline children without hitting them, there are a variety of methods that can be used and parents must be exposed to these through education and information.

Given that discipline can be achieved without the violation the basic human rights of the child, given that studies show that physical punishment contributes to lawlessness in our society we cannot continue to support the use of physical and humiliating punishment of children in South Africa.

<sup>1</sup> Salim Vally at the Southern African Regional Workshop on Ending Corporal Punishment 27 & 28 January 2006

<sup>2</sup> Rapport 28 January 2006 reporting on research conducted by the University of the Free State, School of Education. 58% of teachers in the study believe that corporal punishment must be reinstated in schools and that 28% admit to still using corporal punishment

<sup>3</sup> [www.dphilpotlaw.com/html/glossary.html](http://www.dphilpotlaw.com/html/glossary.html)

<sup>4</sup> Alexandrecu G, Bhavania YG, Derib A, Habasch R, Horno P, Nilsson M, Noueri R, Pierre-Plateau D, Sequeira L, Soneson U & Stuckenbruck D; 2005: *Ending Physical and Humiliating Punishment of Children Making it Happen, Global submission with recommendations, prevalence and attitudes and good practice examples to the UN Study on Violence Against Children*. International Save the Children Alliance

## POSITIVE DISCIPLINE<sup>1</sup>

### Some methods of positive parenting -----

- ☆ Children learn by example, thus parents must model the acceptable behaviour. Parents often punish children who have acted violently to another child by hitting them, setting the worst possible example.
- ☆ Encourage and reward good behaviour. Children respond extremely well to positive reinforcement, this means that the parent/caregiver must observe and acknowledge good behaviour, as a result of this children will be more likely to repeat the behaviour that resulted in this positive attention. It is noted that children who receive little or only negative attention may deliberately misbehave in order to receive attention from their parent.
- ☆ Do not over emphasise undesirable behaviour. Spending too much time focused on and criticizing the child's bad behaviour and faults will influence the child's positive self image. Focus on the wrongdoing to the extent that it can be stopped and corrected and then leave it, constantly referring back to it will undermine the discipline.
- ☆ Criticize the behaviour not the child.
- ☆ Know the developmental stage of the child and have realistic expectations of what the child can do. Physically and mentally children have different capabilities depending on their age. Many children are punished for things that they cannot do anything about. For example a two year old who spills cooldrink should not be punished for being messy, the parent should rather ensure that the child drinks out of a cup or bottle that is spill proof.
- ☆ The child must know what the boundaries, limits and rules are. These must be repeatedly made clear to the child. Ensure that the child is not only told what must not be done but also what should be done. So focus on the do's more than on the don'ts. Rules must be fair.
- ☆ Be consistent about the limits on important things but be prepared to negotiate on less important issues.
- ☆ The discipline must fit the wrongdoing.
- ☆ The parent must be consistent and stick to the rules and consequences they establish, if the adult does not respect these rules and consequences the child won't either<sup>2</sup>.
- ☆ Listen to what the child says and feels, the child may not always be right but their experience is important and may help the parent to understand the child's choices.

Positive discipline recognises that consistency, self control and routine need to be taught to children from an early age<sup>3</sup>.

### Some of the benefits of positive parenting methods include:

- The development of self discipline and the ability to make healthy decisions.
- Children know what is expected of them and know the limits and boundaries of their behaviour.
- The child feels secure.
- A relationship of trust exists between the child and the adult.
- Enhanced self confidence of the child.
- The ability to take responsibility for the consequences of her/his choices and actions.
- The child does not automatically resort to violence as a means to resolve conflict
- The child is taught self respect and to respect other people
- The child develops the ability to cooperate, negotiate and compromise.

<sup>1</sup> Developed from Save the Children Sweden Materials

<sup>2</sup> Schroff-Pendly J (2005) *Disciplining Your Child* www.kidshealth.com

<sup>3</sup> Cronan M, (2005) *Discipline is Not a Dirty Word*